

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF COMMERCE

In the Matter of the Certificate Exemption
of Allan LaFountaine, d/b/a Stillwater
Innovations.
Certificate Number 20148976

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

The above-entitled matter came on for a hearing before Administrative Law Judge George A. Beck commencing at 9:30 a.m. on October 5, 1999, at the Office of Administrative Hearings, 100 Washington Square, 100 Washington Avenue South, Suite 1700, Minneapolis, Minnesota 55401-2138.

David M. Aafedt, Assistant Attorney General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, appeared on behalf of the Minnesota Department of Commerce ("Department"). Respondent did not appear at the hearing. The record closed on October 5, 1999 upon Respondent's default.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Steven M. Minn, Commissioner, Minnesota Department of Commerce, 133 East Seventh Street, St. Paul, Minnesota 55101, to ascertain to procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this case is whether or not Respondent's certificate of exemption should be retroactively revoked or suspended in accordance with Minn. Stat. § 326.91, subds. 1(5) and 3 (1998), and 45.027, subd. 11 (1998), or whether civil penalties should be imposed under Minn. Stat. § 45.027, subd. 6 (1998).

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On September 8, 1999, the Notice of and Order for Hearing in this matter was mailed to Respondent, via first class mail at his last known address, 108 Fifth

Street North, Suite 10, Stillwater, MN 55082, as well as to P.O. Box 146, Stillwater, MN 55082.

2. The Notice of and Order for Hearing mailed to Respondent contained the following statement:

If Respondent fails to attend or otherwise appear at the hearing in this matter, after having been served with a copy of this Order, the allegations herein may be deemed true without further proof, Respondent shall be deemed in default and Respondent's certificate of exemption may be revoked or suspended, Respondent may be censured and/or a civil penalty may be imposed against Respondent without further proceedings.

3. Respondent did not appear at the October 5, 1999 hearing, made no prehearing request for continuance, nor did he file a Notice of Appearance.

4. The allegations of the Notice of and Order for Hearing are deemed proved and incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Commissioner of Commerce and the Administrative Law Judge have subject matter jurisdiction herein pursuant to Minn. Stat. § § 45.027, 326.91, and 14.50.

2. Respondent was given timely and proper notice of the hearing in this matter.

3. The Department has complied with all relevant substantive and procedural requirements of statute and rule.

4. Under Minn. R. 1400.6000, Respondent is in default as a result of his failure to appear at the scheduled hearing.

5. Under Minn. R. 1400.6000, the allegations and the issues set out in the Notice of and Order for Hearing may be taken as true or deemed proved when a party defaults.

6. Based upon the facts set out in the Notice of and Order for Hearing, Respondent has violated Minn. Stat. § § 45.027, 326.91, subd. 1(1)(2)(3)(4) and (6) and subd. 3.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that action be taken against Respondent's certificate of exemption and that the Commissioner consider civil penalties.

Dated this 7th day of October, 1999.

S/ George A. Beck

GEORGE A. BECK
Administrative Law Judge

NOTICE

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

Reported: Default.